

April 22, 2019

VIA ELECTRONIC MAIL

Ms. Kathy Davis Howatt  
Hydropower Coordinator  
Bureau of Land Resources  
17 State House Station,  
Augusta, Maine 04333-00017  
[Kathy.howatt@maine.gov](mailto:Kathy.howatt@maine.gov)

RE: Request for Hearing on DEP Application #L-13256-33-J-N, *Ellsworth Hydroelectric Project*, Brookfield Renewable Energy Group, Black Bear Hydro Partners LLC's Application for §401 State Water Quality Certification, (FERC Docket P-2727).

Dear Ms. Howatt:

On behalf of the Downeast Salmon Federation, Conservation Law Foundation, Atlantic Salmon Federation, Downeast Conservation Network, Frenchman Bay Conservancy, Georges River Trout Unlimited, Maine Center for Coastal Fisheries, the Maine Council of the Atlantic Salmon Federation, Maine Elver Fisherman Association, Maine Rivers, The Friends of Graham Lake, Trout Unlimited, Union River Sporting Club, and Union Salmon Association (collectively "Organizations"), please accept this request for a public hearing<sup>1</sup> on the application for state Water Quality Certification ("WQC") of Black Bear Hydro Partners, LLC ("Applicant") in connection with the Ellsworth Hydroelectric Project ("Project"). Our Organizations are "interested persons" and have a direct interest in this application process. The issuance of a Water Quality Certificate, as part of the FERC re-licensing for this project, will directly affect the interests of each of our Organizations' members, including their recreational use of the Union River and their interest in restoring and preserving its biodiversity.

In its current form, the Applicant's Project presents an increased risk to the Union River's water quality and the habitat of endangered and threatened species which will not be rectified or mitigated under the terms of the proposed FERC and WQC applications. The cumulative and continuing adverse water quality impacts resulting from the operation of the Project on aquatic species and poor water quality have been consistently documented and are a matter of local, regional and state wide interest. The most recent example of these impacts are clear in the attached photographs taken by the Downeast Salmon Federation on April 17, 2019 of the confluence of the Union River and Branch Lake Stream. Additional adverse water quality impacts have been observed and are certain to continue under the Applicant's operation of the Project as set forth in the FERC and WQC applications. While it is clear to our Organizations that the Project has not met and cannot meet water quality standards applicable to the Union River, we believe that it will be necessary to offer evidence as to the negative impacts of the Project on the Union River's biodiversity, conservation, scenic, recreational, and other values and standards. We also believe that the appropriate forum to present and consider that evidence is a public hearing. The testimony and evidence that the staff and members of our Organizations, many of whom collectively have decades of experience working to understand, improve, and protect the conservation, scenic, recreational, biodiversity and quality of water resources in Maine and in the part of the state impacted by this Project in particular, will ensure that the Department has the best information available for it to evaluate the Applicant's WQC

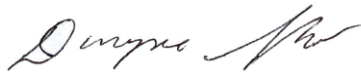
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<sup>1</sup> As that term is used in 06-096 C.M.R. ch 2, subpart 7(A) and to be held in accordance with the *Maine Administrative Procedure Act*, Title 5, chapter 375, subchapter 4, and the Department's rules governing licensing hearings.

application and the full suite of alternatives that are available. In contrast, Applicant's primary function and expertise is the operation of the hydroelectric dam facility, one of several it owns or operates throughout the state, to generate and sell electricity often without, or with limited regard, to the resulting adverse environmental impacts on water quality and biodiversity.

Accordingly, our Organizations believe that a public hearing would assist the Department in its evaluation of Applicant's WQC application, resolving the credible conflicting technical information and giving the public confidence in the Department's ultimate decision. Thank you for your consideration of this request.

Sincerely,



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cc: Jerry Reid, Commissioner, Maine Department of Environmental Protection  
Andy Goode, Vice President, Atlantic Salmon Federation  
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Aaron Dority, Executive Director, Frenchman Bay Conservancy  
Terry Young, President, Georges River Trout Unlimited  
Paul Anderson, Executive Director, Maine Center for Coastal Fisheries  
Gerry Zegers, President, Maine Council of the Atlantic Salmon Federation  
Darell Young, Founder and Co-Director, Maine Elver Fisherman Association  
Landis Hudson, Executive Director, Maine Rivers  
Chuck Verrill, President, Maine Rivers  
Brad and Diane Perry, The Friends of Graham Lake  
Jeffrey Reardon, Maine Brook Trout Project Director, Trout Unlimited  
Heath King, President, Union River Sporting Club  
Morris Lambdin, President, Union Salmon Association



